



# Sim & McBurney

Patent and Trade Mark Agents

Rec'd PCT/PTO 04 OCT 2002

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MICHAEL S. COLUCCI, Ph.D.  
ANDREW R.O. JONES, B.A., LL.B.

Please Quote

Our ref. 1038-1217 MIS:ja

Your ref. -

Writer's Ext. 239

E-mail: [mistewart@sim-mcburney.com](mailto:mistewart@sim-mcburney.com)

October 3, 2002

**VIA COURIER**

The Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231  
U.S.A.

Dear Sirs:

**RE: United States Patent Application No. 10/031,165**  
**Applicant: Sheena M. Loosmore et al.**  
**Title: RECOMBINANT HIGH MOLECULAR WEIGHT MAJOR**  
**OUTER MEMBRANE PROTEIN OF MORAXELLA**

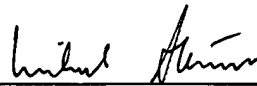
In response to the Notification of Defective Response dated August 16, 2002, submitted herewith are:

1. Petition under 37 CFR 1.47(a) with respect to inventor Sasaki.
2. Declaration by Reza Yacoob in support of the Petition.
3. Declaration and Power of Attorney executed by the remaining inventors on behalf of inventor Sasaki.
4. Copy of Notice.
5. Copy of Notification of Missing Requirements date April 5, 2002.
6. Cheque in respect of the Petition fee and extension of time fee.

The office did not receive the following  
in the amount of \$1600.00  
A check in the  
amount of \$1600.00

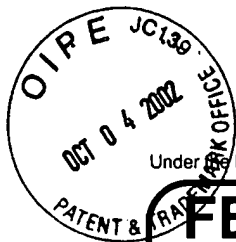
Petition is hereby made under the provisions of 37 CFR 1.136(a) for an extension of four months of the period for response to the Notification of Missing Requirements.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael I. Stewart", is written over a horizontal line.

Michael I. Stewart  
Registration No. 24,973

Enclosure(s)



Rec'd PCT/PTO 04 OCT 2002

PTO/SB/17 (11-01)

Approved for use through 10/31/2002. OMB 0651-0032  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

\$1,600.00

## Complete if Known

Application Number	10/031,165
Filing Date	
First Named Inventor	Sheena Loosmore
Examiner Name	
Group Art Unit	
Attorney Docket No.	1038-1217 MIS:ja

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money ☐ Other ☐ None

☐ Deposit Account:

Deposit  
Account  
Number  
  
Deposit  
Account  
Name

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1)

### 2. EXTRA CLAIM FEES FOR UTILITY AND

Extra Claims		Fee from below	Fee Paid
Total Claims	-20** =		
	0	X	0.00
Independent Claims	-3** =	X	0.00
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

\$0.00

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non - English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	1,470.00
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR § 1.17(q)	
126	180	126	180	Submission of Information Disclosure Statement	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) Petition Under 37 CFR 1.47(a)

130.00

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

\$1,600.00

## SUBMITTED BY

Name (Print/Type) Michael I. Stewart  
Signature

Registration No.  
(Attorney/Agent)

24,973

## Complete (if applicable)

Telephone

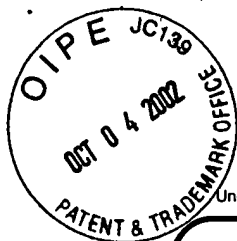
(416) 595-1155

Date

October 3, 2002

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



DT06 Rec'd PCT/PTO

04 OCT 2002

DCT

Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application	10/031,165	
	Filing Date		
	First Named	Sheena Loosmore	
	Group Art Unit		
	Examiner Name		
Total Number of Pages in This Submission		Attorney Docket Number	1038-1217 MIS:ja

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Michael I. Stewart - Registration No. 24,973 SIM & McBURNEY
Signature	
Date	October 3, 2002

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date: <input type="text"/>		
Typed or printed name		
Signature		Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



Rec'd PCT/PTO 04 OCT 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Our Ref: 1038-1217 MIS:ja

In re patent application

No.: 10/031,165

Filing Date: N/A

Applicant: Sheena M. Loosmore et al.

Title: RECOMBINANT HIGH MOLECULAR WEIGHT MAJOR OUTER  
MEMBRANE PROTEIN OF MORAXELLA

October 3, 2002

The Commissioner of Patents  
and Trademarks,  
Washington, D.C. 20231,  
U. S. A.

PETITION UNDER 37 CFR 1.47(a)

Dear Sirs:

Petition is hereby made under the provisions of 37 CFR 1.47(a) to accept a Declaration executed by the inventors, Sheena M. Loosmore, Yan-Ping Yang, and Michel H. Klein, on behalf of the inventor, Ken Sasaki. Our cheque in the amount of the petition fee is enclosed.

The facts whereby the inventor has not signed the documents are set forth in the enclosed Declaration of Reza Yacoob, who has first hand knowledge of the facts. A Declaration and Power of Attorney executed by the other inventors on behalf of Ken Sasaki is enclosed.

The last known address of Ken Sasaki is:

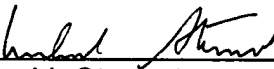
MDS Pharmaceuticals  
6850 Goreway Drive  
Mississauga, Ontario  
L4V 1V7, Canada

03/20/2003 SHAJARRO 00000018 192253 10031165

01 FC:1254 1450.00 CH

Under the circumstances, it is submitted that this Petition be accepted.

Respectfully submitted,

  
\_\_\_\_\_  
Michael I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada  
(416) 595-1155  
FAX No. (416) 595-1163

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Our Ref: 1038-1217 MIS:ja

In re patent application

Application No.: 10/031,165

Filing Date: N/A

Applicant: Sheena M. Loosmore et al.

Title: RECOMBINANT HIGH MOLECULAR WEIGHT MAJOR OUTER  
MEMBRANE PROTEIN OF MORAXELLA

August 13, 2002

The Commissioner of Patents  
and Trademarks,  
Washington, D.C. 20231,  
U. S. A.

DECLARATION UNDER 37 CFR 1.47 (a)

I, Reza Yacoob, of 5353 Floral Hill Crescent, Mississauga, Ontario, L5V  
1V2, declare as follows:

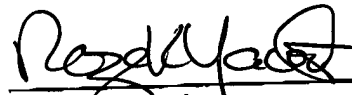
1. I am a member of the Patents Department of Aventis Pasteur Limited (formerly Connaught Laboratories Limited) and have personal knowledge of the facts set forth herein.
2. This application was filed as a U.S. national phase filing of PCT/CA00/00870 which claimed priority from U.S. Application No. 09/361,619 filed July 27, 1999. Ken Sasaki had signed a Declaration and Power of Attorney in connection with U.S. Application No. 09/361,619.
3. On February 14, 2002, I arranged for a complete copy of the specification for this application, including drawings to be mailed to Ken Sasaki at his last known address, namely, MDS Pharmaceuticals, 6850 Goreway Drive, Mississauga, Ontario, L4V 1V7, Canada, along with a Declaration and Power of Attorney document, with a request that he execute and return the paper. The requested executed Declaration and Power of Attorney has not been returned.

- 2 -

4. Ken Sasaki terminated employment with Aventis Pasteur Limited on November 19, 2001. The invention which is the subject of this application was made during the period of time that Ken Sasaki was employed by Aventis Pasteur Limited. The terms of his employment oblige Ken Sasaki, according to paragraph 2 of the Confidentiality Agreement dated November 2, 1992, attached herein as Exhibit I, to execute all papers in connection with any invention made during the course of his employment. As noted above, the Declaration and Power of Attorney in connection with the priority application was executed by Ken Sasaki as well as an assignment to Connaught Laboratories Limited.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Declared at Toronto, Ontario, this 16 day of August, 2002

  
Reza Yacob





1755 Steeles Avenue West  
Willowdale, Ontario, Canada  
M2R 3T4

Telephone: 416-667-2701

EXHIBIT I

### CONFIDENTIALITY AGREEMENT

TO: CONNAUGHT LABORATORIES LIMITED

IN CONSIDERATION OF the continued employment of the undersigned by Connaught Laboratories Limited ("Connaught") and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the undersigned), the undersigned hereby covenants and agrees with Connaught as follows:

1. The undersigned will not, either during the continuance of his employment by Connaught or any time thereafter, disclose or authorize anyone to disclose any confidential information or trade secrets concerning the business or businesses of Connaught to any person nor use or authorize to use the same for any purposes other than those of Connaught nor remove or authorize anyone to remove from Connaught's premises any books, manuals, records, documents or working papers (or copies thereof or extracts therefrom) or samples of any biological or pharmaceutical products except, in any case, as may be specifically approved by Connaught or be specifically required in the course of his employment by Connaught.
2. The undersigned agrees that all discoveries, methods, products, improvements or formulae with which the undersigned may be involved in any manner during the term of his employment by Connaught and in any way relating to the business or businesses of Connaught are the sole, exclusive and absolute property of Connaught and the undersigned will forthwith upon becoming so involved with any such discovery, method, product, improvement or formula, fully and freely disclose the same to Connaught and shall, when so requested by Connaught, execute all documentation as may be required by Connaught to fully and effectively vest in Connaught the property rights in any such discovery, method, product, improvement or formula. The undersigned hereby acknowledges and agrees that any such discovery, method, product, improvement or formula shall constitute confidential information or trade secrets relating to the business or businesses of Connaught and shall be subject to the provisions of paragraph 1 hereof.
3. Any provision of either paragraph 1 or 2 hereof which is determined to be void and unenforceable shall be severable from all other provisions thereof and shall not be deemed to affect or impair the validity of any such other provisions.
4. The undersigned hereby agrees that all covenants contained herein are reasonable and valid and waives all defences to the strict enforcement thereof by Connaught.
5. The undersigned acknowledges that a violation of any of the provisions of these presents will result in immediate and irreparable damage to Connaught and agrees that in event of such violation Connaught shall, in addition to any other right or relief, be entitled to equitable relief by way of temporary or permanent injunction and to such other relief that any court of competent jurisdiction may deem just and proper.
6. The provisions hereof, where the context so permits, shall enure to the benefit of the successors and assigns of Connaught and shall be binding upon the heirs, legal personal representatives and assigns of the undersigned.
7. The undersigned hereby acknowledges that he/she has read the foregoing and understands the implications thereof and acknowledges receipt of a duly executed copy of the presents.

IN WITNESS WHEREOF these presents have been executed by the undersigned  
this second day of November, 1992.

SIGNED, SEALED & DELIVERED  
in the presence of

Ken Sasaki

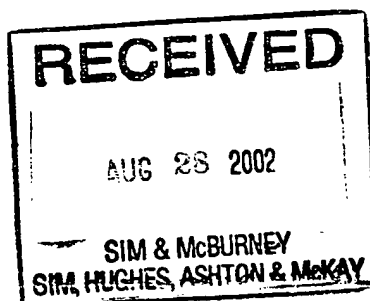


UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCL  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/031,165	FIRST NAMED APPLICANT Sheena M. Loosmore	ATTY. DOCKET NO. 1038-1217 MIS:jb
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24223  
 SIM & MCBURNEY  
 330 UNIVERSITY AVENUE  
 6TH FLOOR  
 TORONTO, ON M5G 1R7  
 CANADA



INTERNATIONAL APPLICATION NO. PCT/CA00/00870	
LA. FILING DATE 07/26/2000	PRIORITY DATE 07/27/1999

CONFIRMATION NO. 4814

371 FORMALITIES LETTER



\*OC000000098640151\*

Date Mailed: 08/16/2002

### NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fee
- Priority Document
- Biochemical Sequence Diskette
- Biochemical Sequence Listing
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Oath or Declaration
- Preliminary Amendments

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice **MUST** be returned with the response.

BARBARA A CAMPBELL

Telephone: (703) 305-3631

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/031,165	PCT/CA00/00870	1038-1217 MIS:jb

FORM PCT/DO/EO/916 (371 Formalities Notice)

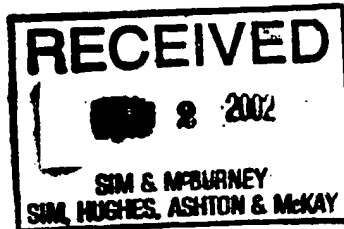


## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box P-1  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/031,165	Sheena M. Loosmore	1038-1217 MIS:jb

24223  
 SIM & MCBURNEY  
 330 UNIVERSITY AVENUE  
 6TH FLOOR  
 TORONTO, ON M5G 1R7  
 CANADA



INTERNATIONAL APPLICATION NO.	
PCT/CA00/00870	
I.A. FILING DATE	PRIORITY DATE
07/26/2000	07/27/1999

CONFIRMATION NO. 4814  
 371 FORMALITIES LETTER



\*OC000000007803226\*

Date Mailed: 04/05/2002

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Priority Document
- Biochemical Sequence Listing
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Oath or Declaration
- Preliminary Amendments

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- \$130 Surcharge for providing the oath or declaration later than the appropriate 30 months months from the priority date (37 CFR 1.492(e)) is required.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Additionally the following defects have been observed:

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
  - A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).
  - APPLICANT MUST PROVIDE:
    - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
    - A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
  - For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)
- Additional claim fees of **\$1080** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$1210** for a Large Entity:

- **\$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **\$1080**
  - **\$1080** for **64** total claims over 20.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

BARBARA A CAMPBELL

Telephone: (703) 305-3631

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.

10/031,165

INTERNATIONAL APPLICATION NO.

PCT/CA00/00870

ATTY. DOCKET NO.

1038-1217 MIS:jb

FORM PCT/DO/EO/905 (371 Formalities Notice)